

THE HON'BLE SRI JUSTICE C.V. RAMULU

Writ Petition No.30352 of 1998

Dated: 24.10.2007

Between:

D. Narasimha Reddy.

**....
PETITIONER.**

AND

A.P.State Ware Housing Corporation, rep. by their Managing
Director, Ware Housing Sadan, Nampally Station Road,Hyderabad
and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE C.V. RAMULU

Writ Petition No.30352 of 1998

ORDER:

This writ petition is filed seeking certiorari to call for the records relating to the proceedings No.SWC/E6/15866/90 dated 16.09.1998 of the first respondent and declare the same as arbitrary and illegal.

It appears, the petitioner, while working as Manager in Andhra Pradesh State Ware-Housing Corporation, Nizamabad, (for short 'the Corporation') was issued with a charge sheet stating that due to his negligence, there was shortage of stocks. After conducting an enquiry, recovery order was passed. Aggrieved by the same, he filed W.P.No.3236 of 1997 and the same was dismissed on 19.02.1997. Aggrieved thereby, the petitioner preferred W.A.No.823 of 1997 and the same was also dismissed on 29.07.1997. Challenging the same, he filed S.L.P.No.22616 of 1997 before the Apex Court. The Apex Court, while dismissing the said petition on 06.04.1998, passed the following order:

“This Special Leave Petition is dismissed with an observation that if ultimately it is found that the loss suffered by the Corporation is less than the amount sought to be recovered by the petitioner then it will be open to the petitioner to re-agitate the question of the extent of his liability as regards the loss suffered by the Corporation.”

. Thus, the only scope left open to the petitioner is to claim refund, if the loss suffered by the Corporation is less than the amount recovered from him. It appears, in view of the observation made by the Apex Court, he made a representation and the same was considered and negated by the Corporation under the impugned proceedings. Aggrieved by the same, the present writ petition is filed.

From a reading of the order of the Apex Court, it is clear that if the amount of loss caused to the Corporation is less than what is recovered, the petitioner is at liberty to make a representation for refund of such excess amount recovered. This is only the scope of the order passed by the Apex Court. However, the learned counsel for the petitioner strenuously contended that when the petitioner made a representation in pursuance of the orders passed by the Apex Court, the respondents passed a very cryptic order, which is impugned herein, which does not furnish any reasons nor any plausible explanation is offered for rejecting the representation of the petitioner.

I am of the opinion that the only scope left over by the Apex Court for the petitioner to agitate is that if the loss caused to the Corporation is less than the amount recovered from him, he is at liberty to seek for refund of such amount and not otherwise. Therefore, any amount of explanation offered by the petitioner either in the representation or in the affidavit filed before this Court would not permit him to re-agitate the matter, which was already concluded in the earlier writ petition, writ appeal and ultimately before the Supreme Court as noticed above. Further, the learned

counsel for the petitioner stated that M/s.NAFED has never claimed the loss caused to it, but from the very impugned order dated 16.09.1998, it is clear that M/s.NAFED had not only preferred claim for Rs.1,24,211-15ps but they have also recovered an amount of Rs.53,236/- for the shortage charges and requested the Corporation to pay the balance amount of Rs.70,975.15 ps. This itself would indicate that the claim and the shortage caused was Rs.1,24,211.15 ps, which was recovered from the petitioner. Therefore, it cannot be said that the amount recovered from the petitioner is more than the loss caused to the Corporation.

Under those circumstances, the Writ Petition is devoid of merit and is liable to be dismissed.

The Writ Petition is dismissed. No order as to costs.

C.V. RAMULU, J

Date: 24.10.2007

sj